

EXHIBIT 1

INTRODUCTION

Respondent Committee for Yes on Measure F (“Respondent Committee”) was a recipient ballot measure committee primarily formed to support Proposition F. Proposition F was a bond measure placed on the ballot in a special election held on April 11, 2000, in the City of Saratoga. Respondent Preston H. Wisner served as the treasurer of Respondent Committee.

The Political Reform Act (the “Act”)¹ requires local ballot measure recipient committees to comply with various campaign reporting requirements regarding the receipt and expenditure of campaign funds. In this matter, Respondents violated the Act by failing to file a second pre-election campaign statement.

This matter was referred by the Santa Clara County District Attorney’s Office. The Enforcement Division served a Report in Support of a Finding of Probable Cause upon Respondents, thereby tolling the statute of limitations.

For the purposes of this Stipulation, Respondents’ violation of the Act is stated as follows:

COUNT 1: Respondents Committee for Yes on Measure F and Preston H. Wisner failed to file a second pre-election campaign statement by March 30, 2000, for the reporting period February 27, 2000, through March 25, 2000, in violation of Sections 84200.5, subdivision (c) and 84200.8, subdivision (b).

SUMMARY OF THE LAW²

A. Duty to File Campaign Statements

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order for voters to be fully informed and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

Section 82013, subdivision (a), defines a “committee” as including any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Pursuant to Section 84200.5, subdivision (c), a recipient committee that is formed or exists primarily to support or oppose a single measure must file pre-election campaign statements in

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² The statutory and regulatory sections discussed in this section reflect the law in effect on the date of the violation, March 30, 2000.

accordance with the requirements of Section 84200.8. For elections held on a date other than in June or November of an even-numbered year, Section 84200.8 requires that the first pre-election statement for the reporting period ending 45 days before the election be filed no later than 40 days before the election, and that the second pre-election statement for the reporting period ending 17 days before the election be filed no later than 12 days before the election.

B. Treasurer Liability

Under Section 81004, subdivision (b), if a filer is an entity other than an individual, campaign statements and reports shall be signed and verified by a responsible officer of the entity or by an agent. Additionally, under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of the committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

C. Statute of Limitations for Administrative Proceedings

Section 91000.5 provides that an administrative action, pursuant to Chapter 3 of the Act (commencing with Section 83100) alleging a violation of any provision of the Act, shall not be commenced more than five years after the date on which the violation occurred. Subdivision (a) of that section states that the service of a probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated the Act, shall constitute the commencement of the administrative action.

DISCUSSION

Respondent Committee was a recipient ballot measure committee formed about March 7, 2000. Respondent Committee was primarily formed to support Proposition F. Proposition F was a bond measure placed on the ballot by the Saratoga Fire District in a special election held on April 11, 2000, in the City of Saratoga. The purpose of the bond measure was to raise funds to replace the aging fire station in the City of Saratoga, which had been found to be at high risk for major damage due to a seismic event. The bond measure passed with 88.8 percent of the vote.

In connection with the April 11, 2000, Special Election, Respondent Committee received and spent campaign funds totaling approximately \$87,000. According to an investigation completed by the Enforcement Division, Respondent Wisner became involved with the Committee after the commissioner of the Saratoga Fire Protection District, Robert Egan, asked him to serve as the Committee's treasurer. It appears that Mr. Egan and other fire officials coordinated and facilitated the campaign for the new fire station with the assistance of a political consulting firm and that group directed the activities of Respondent Committee and Respondent Wisner.

COUNT 1: Failure to File Second Pre-election Campaign Statement

In connection with the April 11, 2000, Special Election, Respondents had a duty to file a second pre-election campaign statement for the reporting period February 27, 2000, through March 25, 2000, by March 30, 2000. Respondents, however, failed to file the second pre-election campaign statement, instead reporting the contribution and expenditure information on a semi-annual statement Respondents filed after the election. The Santa Clara County Registrar of Voters contacted Respondent Wisner by telephone on December 18, 2000, and mailed a notice to him on December 28, 2000, reminding him of the duty to file. Instead of filing the required second pre-election campaign statement, Respondent Wisner responded by filing a timely semi-annual campaign statement, which included disclosure of the contributions received and expenditures made during the second pre-election reporting period. The total amount of contributions received during the second pre-election reporting period was \$25,557.

By failing to file a second pre-election campaign statement, Respondents violated Sections 84200.5, subdivision (c) and 84200.8, subdivision (b).

CONCLUSION

This matter consists of one count of violating the Political Reform Act, which carries a maximum administrative penalty of \$2,000.³ In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act.

The typical penalty for the failure to file a second pre-election campaign statement for violations occurring prior to January 1, 2001, has historically varied depending upon the circumstances of the violation. Respondent Wisner had a non-delegable duty as a committee treasurer to timely file required campaign statements. In this matter, Respondent Wisner disclosed the required information on the committee's semi-annual campaign statement and no evidence was found to suggest that Respondent Wisner was attempting to conceal information. Respondent Wisner contends that he attempted to comply with the filing requirements by filing a first pre-election statement and a post-election semi-annual statement. In this case, because the second pre-election statement was not filed, the public was deprived of information it was entitled to receive *before* the election regarding Respondent Committee's funding sources and expenditures. However, because this violation occurred at a time when the Commission often charged such violations at the lower end of the penalty range, imposition of \$750, which is comparable to previous cases and is at the lower end of the \$2,000 penalty range, is appropriate.

Accordingly, the facts of this case justify imposition of the agreed upon penalty of \$750.

³ On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000) for violations occurring after that date.